IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1249 of 2006

Mirabai Martandrao Sansare — Petitioner
Vs.
The State of Maharashtra & anr. — Respondents

Mr.Satish L. Maneshinde with Mr. Sayaji D. Nangre for petitioner.

Mr.D.S.Mhaispurkar, A.P.P. for State.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

October 17, 2006.

ORAL JUDGMENT (PER B.H.MARLAPALLE,J.)

1. In this petition filed under Article 226 read with Articles 21 and 22 of the Constitution, the detention order dated 19/11/2005 passed by the Commissioner of Police, Brihan Mumbai under Section 3(2) of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981 ("the MPDA Act" for short) has been challenged by the detenu's mother. The said detention order was served on him on 27/3/2006. The Detaining Authority submitted a report under Section 3(3) of the MPDA Act to the State Government on 21/11/2005 and the Government granted approval to the said order on 24/11/2005. Reference under Section 10 of the MPDA Act was made to the Advisory Board on 10/4/2006 i.e. after the

order of detention was executed. The Advisory Board submitted its opinion on 8/5/2006 and it was received by the State Government on 9/5/2006. The detention order came to be confirmed on 15/5/2006 and it is for a period of one year. Thus the detention period would expire on 26/3/2007.

2. The detention order is based on two C.Rs. i.e. C.R. No.89/05 registered with the Wadala Police Station for offences punishable under Sections 143, 147, 148, 149, 324, 307 and 353 of IPC and C.R.No.211/05 registered on 25/8/2005 as per the complaint made by Shri Ashok Dhondiba Sonawane, Police Sub Inspector. The CR was registered with the Bhoiwada Police Station. In addition, two in-camera statements (Witness "A" and Witness "B") have also been taken into consideration as the grounds for passing the impugned detention order. Writ Petition No.108 of 2006 was filed on behalf of the detenu Bala Gaimukhe which we have dismissed yesterday and he is co-accused in both the CRs as well as the in-camera statements along with the present detenu. We have perused the original file and noted that in the in-camera statements a specific role has been assigned to the detenu on the basis of which he has

been termed as a "dangerous person" within the meaning of Section 2(b-1) of the MPDA Act and along with the said co-accused the detenu was also detained so as to prevent him along with others from spreading a reign of terror in the nearby locality i.e. Nadkarni Park and Wadala (East) etc. The learned counsel for the petitioner reiterated the very same grounds as were pressed before us by the learned counsel in Writ Petition No.108 of 2006 filed on behalf of Bala Gaimukhe. In addition it was submitted that in the CRs registered and referred to hereinabove i.e. C.R. No.89/05 and C.R. No.211/05 no specific role was assigned to the detenu in the complaint. However, we do not subscribe to these submissions and the grounds for detention furnished separately to the detenu as well as in the complaints filed with the concerned police stations the role played by the detenu has been specifically stated and that role is not passive but an active aggressor with a sura in his hand. It is also stated in the CR that the detenu assaulted Mr.Deepak Waman Kedar while coming out of the police station on 24/8/2005 with a weapon and he was injured in the same.

3. So far as the other grounds are concerned, we

find no merit in the same for the reasons stated by us in our judgment in Writ Petition No.108 of 2006 rendered yesterday and, therefore, this petition also must fail.

4. In the result the petition is dismissed and the Rule is discharged.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE